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Attorneys for Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

ABRIL “APRIL” JIMENEZ-MENDEZ, an
Individual, ARIANA JIMENEZ-MENDEZ, an
Individual, INNA KHIMICH, an Individual,
LISA CARVALHO, an Individual, DINA
CERNAVA, an Individual, and KSENIYA
PARKHOTYUK, an Individual,

Case No.: 3:23-cv-01190-IM

**NOTICE OF DEFENDANT’S CONSENT
TO FILING OF AMENDED
COMPLAINT UNDER FRCP 15(a)(2)**

Plaintiffs,

v.

OREGON HEALTH AND SCIENCE
UNIVERSITY, a Public Corporation and
Governmental Entity, and DOES 1
THROUGH 50, Inclusive,

Defendants.

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Defendant Oregon Health and
Science University (“OHSU”) submits this notice of its written consent to Plaintiffs’ First

Amended Complaint removing Plaintiff's Second Cause of Action under Title VII of the Civil Rights Act of 1964 for disparate treatment discrimination.

Rule 15 allows a plaintiff to "amend its pleading . . . with the opposing party's written consent" Fed. R. Civ. P. 15(a)(2). "Once the adverse party has consented to the amendment of a pleading," the Court need take no further action and "has no control over the matter under Rule 15(a)." *Fern v. United States*, 213 F.2d 674, 677 (9th Cir. 1954); *accord Williams v. Perdue*, No. C19-0444-JCC, 2020 WL 5996431, at *1 (W.D. Wash. Oct. 9, 2020); *Atlas v. Arnold*, No. CV 15-01504 RSWL (RAO), 2016 WL 11521727, at *3 (C.D. Cali. Oct. 31, 2016). Here, Plaintiff submits an amended complaint removing one of Plaintiff's claims against OHSU and declining to pursue it further. Plaintiff's counsel has conferred with OHSU's counsel about the amendment and OHSU consents to it.

Defendants recognize that this Court dismissed with prejudice Plaintiff's claim under 42 U.S.C. § 1983 and the First Amendment of the United States Constitution, and that Plaintiff includes that claim in the consented amended complaint for preservation purposes only. *See* Am. Compl. ¶¶ 56–64. In the amended complaint, Plaintiff expresses acknowledges that "on January 29, 2024, Judge Karin J. Immergut dismissed Plaintiffs' cause of action under 42 U.S.C. § 1983 with prejudice" and that "Plaintiffs leave this cause of action in this amended complaint strictly for purposes of preserving the issue for appeal." Am. Compl. at 15 n.2. Defendants consent to Plaintiff's inclusion of this claim for preservation purposes only and not for any other purpose.¹ Defendants proceed in this litigation assuming this claim remains dismissed with

¹ To the extent Plaintiff later files an appeal related to this claim, Defendants reserve all rights regarding the appeal.

prejudice. Defendants will decline to renew Defendants' Motion to Dismiss regarding that claim unless directed otherwise by the Court.

Defendants will file an Answer to Plaintiff's amended complaint within the time allowed under Rule 15(a)(3).

DATED: February 15, 2024

STOEL RIVES LLP

s/ Alex Van Rysselberghe

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